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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/528,940	03/23/2005	Timothy J Mousley	GB020164US	6581
24737 7590 04/29/2008 PHILIPS INTELLECTUAL PROPERTY & STANDARDS P.O. BOX 3001 BRIARCLIFF MANOR, NY 10510				
EXAMINER				
HU, RUI MENG				
ART UNIT		PAPER NUMBER		
2618				
MAIL DATE		DELIVERY MODE		
04/29/2008		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Advisory Action**  
**Before the Filing of an Appeal Brief**

**Application No.**

10/528,940

**Applicant(s)**

MOULSLEY ET AL.

**Examiner**

RuiMeng Hu

**Art Unit**

2618

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED ON 04/14/2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.  
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.  
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ They raise the issue of new matter (see NOTE below);  
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
The status of the claim(s) is (or will be) as follows:  
Claim(s) allowed: \_\_\_\_\_.  
Claim(s) objected to: \_\_\_\_\_.  
Claim(s) rejected: \_\_\_\_\_.  
Claim(s) withdrawn from consideration: \_\_\_\_\_.

**AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See Continuation Sheet.  
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). \_\_\_\_\_.  
13. ☐ Other: \_\_\_\_\_.

/Edward Urban/  
Supervisory Patent Examiner, Art Unit 2618

Continuation of 11, does NOT place the application in condition for allowance because: Applicant argues that the applied references fail to teach a) "the secondary station (SSI) monitoring its radio environment" and b) "sending information about its radio environment to the primary station." Next, c) "the primary station (PSI) in response to this information adapting itself" and d) "informing the secondary station (SSI) regarding the type of adaptation made."

However, the series of steps a to d is claimed in claim 1, but not in claims 10 or 12. Claim 10 recites a primary station having means for adapting itself in response to a received signal from a secondary station, and means for informing the secondary station regarding the type of adaptation made; one secondary station having means for monitoring its radio environment and for transmitting a signal including information about its radio environment. Clearly the "a received signal" is not limited to "information about its radio environment". Therefore claim 10 can be broadly interpreted without being limited by the scope of said series of steps. Claim 12 recites means for monitoring its radio environment and for transmitting a signal including information about its radio environment, means for receiving information regarding the type of adaptation made by the primary station. Clearly the limitation step c) of said series of steps is not included in claim 12. Therefore claim 12 can be broadly interpreted without being limited by the scope of said series of steps.

Applicant further argues that Walton (US Pub. 2003/0128658) does not teach a single system that performs steps a to d.

Walton discloses: Figure 2 shows a flow diagram of a process to schedule terminals for downlink data transmission; Figure 8A shows a system for downlink data transmission.

Walton further discloses, under the topic Downlink Scheduling for SIMO and MIMO Terminals (starting from paragraph 65), Walton discloses (in paragraph 72) using channel state information (e.g., SNRs or some other statistics) derived by the terminals; (in paragraph 77) for the MIMO mode, a single MIMO terminal is selected for evaluation for the k-th frequency subchannel group, and one SNR vector for this terminal is retrieved (retrieved from the terminal). Therefore, the process of downlink scheduling at base station including steps of receiving channel state information (e.g. SNR) from terminals, performing channel assignment and etc. (as adapting itself, paragraph 85) and informing the terminal regarding the type of adaptation made via a control channel (paragraph 85). Therefore, the flow diagram of figure 2 is a part of the process of the system of figure 8A and that performs steps a to d.

Therefore, the application is not in condition for allowance.

**Application Number****Application/Control No.**

10/528,940

**Applicant(s)/Patent under  
Reexamination**

MOULSLEY ET AL.

**Examiner**

RuiMeng Hu

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